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Mortgage Electronic Registration Systems, Inc.

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
MEDFORD DIVISION

**IVAN HOOKER and KATHERINE  
HOOKER,**

Case No. 10-CV-3111-PA

Plaintiffs,

Defendants Bank of America, NA and  
Mortgage Electronic Registration  
Systems, Inc.'s

**MOTION TO DISMISS**

v.

**NORTHWEST TRUSTEE SERVICES,  
INC.; BANK OF AMERICA, NA;  
MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.,**

Pursuant to Fed. R. Civ. P. 12(b)(6) and 8(a)

(ORAL ARGUMENT REQUESTED)

Defendants.

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**LR 7.1(a) CERTIFICATION**

Counsel for Defendants Bank of America, NA and Mortgage Electronic Registration Systems, Inc. (collectively "Bank Defendants") certify that before filing this motion he conferred in good faith with plaintiffs' counsel through a personal telephone conference and that the parties were unable to resolve this dispute.

PAGE 1 - MOTION TO DISMISS

**MOTION**

Bank Defendants move, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, to dismiss plaintiffs' amended complaint for failure to state a claim for relief. Bank Defendants also move to dismiss for failure to provide "a short and plain statement of the claim showing the pleader is entitled to relief" pursuant to Rule 8(a). Bank Defendants further move the court for an order allowing recovery of their reasonable attorney fees pursuant to the terms of the parties' contractual agreements and ORS 20.105.

In support of this Motion, Bank Defendants rely upon the Memorandum in Support of their Motion to Dismiss, the Request for Judicial Notice by the Bank Defendants, the Declaration of Stephen P. McCarthy in Support of Request for Judicial Notice, and the pleadings filed in this action.

DATED: October 14, 2010

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By s/ Stephen P. McCarthy  
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